

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

CHRISTOPHER RICHARD CHAPIN,

Plaintiff,

v.

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA, MICROSOFT
CORPORATION, and the MICROSOFT
CORPORATION WELFARE PLAN,

Defendants.

No. 2:19-cv-01256

DECLARATION OF MCKEAN J.
EVANS IN SUPPORT OF CHAPIN'S
OPPOSITION TO PRUDENTIAL'S
MOTION FOR AMENDED OR
ADDITIONAL FINDINGS AND TO
ALTER OR AMEND JUDGMENT

MCKEAN J. EVANS makes the following declaration based on personal knowledge:

1. I am over 18 years of age. I am competent to testify. The facts contained in this Declaration are based on my personal knowledge, unless stated otherwise.

2. I am the attorney representing Plaintiff Chapin in this matter.

3. Attached hereto as Exhibit A are Prudential's Fed. R. Civ. P. 26(a)(1) initial disclosures in this lawsuit.

I declare under penalty of perjury of the laws of the State of Washington and the laws of the United States of America that the foregoing is true and correct.

Dated May 3, 2021, at Seattle, Washington.

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s/ McKean J. Evans
MCKEAN J. EVANS

EXHIBIT A

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7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CHRISTOPHER RICHARD CHAPIN,

11 Plaintiff,

12 v.

13 THE PRUDENTIAL INSURANCE
14 COMPANY OF AMERICA, MICROSOFT
15 CORPORATION, and the MICROSOFT
16 CORPORATION WELFARE PLAN,

17 Defendants.

Civil Action No. 2:19-cv-01256

DEFENDANT PRUDENTIAL'S RULE
26(A)(1) INITIAL DISCLOSURES

18 Defendant, The Prudential Insurance Company of America ("Prudential"), by and
19 through its undersigned counsel, and pursuant to Rule 26(a)(1) of the Federal Rules of Civil
20 Procedure, submits the following Initial Disclosures:

21 This case involves, in part, a claim brought pursuant to the Employee Retirement Income
22 Security Act ("ERISA"), 29 U.S.C. § 1001, *et seq.*, for long-term disability benefits under the
23 Microsoft Corporation Welfare Plan. As to that claim, Prudential asserts that the parties are not
24 entitled to any discovery beyond the confines of the administrative record, which Prudential will
25 disclose to Plaintiff. Further, Prudential objects to providing these disclosures as to claims that
26 are exempt from the requirement of initial disclosures, and Prudential provides these disclosures
subject to and without waiving that objection. The parties have not agreed to any discovery
beyond the administrative record with respect to Plaintiff claim for long-term disability benefits,

DEFENDANT'S RULE 26(A)(1) INITIAL DISCLOSURES - 1

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1 and the Court has not ordered any such discovery. Prudential reserves the right to supplement
2 these disclosures in the event that the parties agree to discovery beyond the administrative
3 record, or the Court orders such discovery.

4 Plaintiff has also brought a state common law claim for negligence against Prudential
5 relating to Prudential's administration of Plaintiff's claim for short-term disability ("STD")
6 benefits under Microsoft Corporation's Short-Term Disability Policy (the "STD Policy").
7 Prudential provides these disclosures solely for Plaintiff's negligence claim relating to his STD
8 benefits. By providing any information pursuant to any provision of FED. R. CIV. P. 26(a)(1),
9 Prudential does not concede the materiality of the subject to which it refers. Prudential's initial
10 disclosures are made expressly subject to, and without waiving or intending to waive, any
11 questions or objections as to the competency, relevancy, materiality, privilege, or admissibility as
12 evidence or for any other purpose, of any of the information produced or identified in any
13 proceeding including the trial of this action or any subsequent proceeding. By identifying
14 categories of documents or information, Prudential in no way waives or intends to waive any
15 privilege that may apply to any document or item of information within those categories.

16 Prudential's investigation of the claims, potential counterclaims, and defenses in this
17 matter is continuing. Prudential therefore reserves the right to supplement these disclosures at a
18 future date. Prudential also reserves the right to use at trial witnesses and/or documents not
19 identified herein but subsequently identified during discovery.

20 **A. Persons With Knowledge**

21 At this time, all persons likely to have discoverable information that Prudential may use
22 to support its claims and defenses relating to Plaintiff's ERISA claim for LTD benefits are
23 contained in the administrative record of Plaintiff's claim for LTD benefits, which Prudential
24 will produce to Plaintiff. Investigation continues. Prudential reserves the right to rely upon any
25 witnesses identified by the other parties in their disclosures.

1 The following individuals, in addition to Plaintiff and anyone listed in Plaintiff's Rule
2 26(a) Initial Disclosures, are likely to have discoverable information that Prudential may use to
3 support its defenses to Plaintiff's claim for negligence relating to Prudential's administration of
4 Plaintiff's STD claim, excluding evidence solely for impeachment:

- 5 1. Alicia Richardson, Disability Claims Manager, Prudential, may have knowledge
6 of facts related to Plaintiff's STD claim, Prudential's claim handling, and the
applicable terms of the Group Contract G-43994-WA.
- 7 2. Peggy Perez, Appeals Analyst, Prudential, may have knowledge of facts related to
8 Plaintiff's STD appeal, Prudential's appeal handling, and the applicable terms of
the Group Contract G-43994-WA.
- 9 3. Jacqueline Lopez, Team Lead, Claims, Prudential, may have knowledge of facts
10 related to Plaintiff's STD claim, Prudential's claim handling, and the applicable
terms of the Group Contract G-43994-WA.
- 11 4. Kimberly Cyr, Complex Senior Appeal Specialist, Prudential, may have
12 knowledge of facts related to Plaintiff's STD appeal, Prudential's appeal
handling, and the applicable terms of the Group Contract G-43994-WA.
- 13 5. Venus Thompson, R.N., Clinician, Prudential, may have knowledge of facts
14 related to Plaintiff's alleged medical conditions and Prudential's evaluation of the
15 same.
- 16 6. Susan Kelley, R.N., Clinician, Prudential, may have knowledge of facts related to
17 Plaintiff's alleged medical conditions and Prudential's evaluation of the same.
- 18 7. Jeremy B. Hertza, Psy.D., may have knowledge of facts related to Plaintiff's
19 alleged medical conditions and whether Plaintiff has any medically necessary
20 restrictions or limitations as a result of the same. Dr. Hertza may be contacted
21 through Exam Coordinators Network (ECN), 6111 Broken Sound Parkway NW,
22 Suite 207, Boca Raton, FL 33487, 561-922-5200.
- 23 8. Margaret "Lisa" Frank, M.D., may have knowledge of facts related to Plaintiff's
24 alleged medical conditions and whether Plaintiff has any medically necessary
25 restrictions or limitations as a result of the same. Dr. Frank may be contacted
26 through R3 Continuum, 7825 Washington Ave. S., Suite 500, Bloomington, MN
55439 952-927-0184.
9. Wallace Hodges, M.D., may have knowledge of facts related to Plaintiff's alleged
medical conditions. Dr. Hodge's last known address is Better Internal Medicine,
901 Boren Ave. #615, Seattle, WA, 98104, 206-467-1457.
10. Robert B. Olsen, M.D., may have knowledge of facts related to Plaintiff's alleged
medical conditions. Dr. Olsen's last known address is Robert B. Olsen, M.D.,
Inc., 901 Boren Ave. #615, Seattle, WA 98104, 206-622-5455.
11. Diane Schachter, LMFT, may have knowledge of facts related to Plaintiff's
alleged medical conditions. Ms. Schachter's last known address is 1300 114th
Ave. SE, #104, Bellevue, WA 98004, 425-635-0589.

- 1 12. Clinicians at Naturopathic Psychiatry may have knowledge of facts related to
2 Plaintiff's alleged medical conditions. Naturopathic Psychiatry's last known
3 address is, 12025 115th Ave. NE, Building D, Suite 200, Kirkland, WA 98034,
4 425-821-1810.
5 13. Clinicians at The Evergreen Clinic may have knowledge of facts related to
6 Plaintiff's alleged medical conditions. The Evergreen Clinic's last known address
7 is, 12025 115th Ave. NE, Building D, Suite 200, Kirkland, WA 98034, 425-821-
8 1810.
9 14. Radka Chapin, Plaintiff's wife, may have knowledge of facts related to Plaintiff's
10 medical conditions and income. Mrs. Chapin's last known address is 13720 NE
11 71st Place, Redmond, WA 98052.

12 The Prudential employees listed above may be contacted only through Prudential's
13 counsel.

14 In addition to the individuals listed above, any individuals identified in materials
15 exchanged during discovery may have discoverable information as to the subjects referenced in
16 those materials. Investigation continues.

17 **B. Relevant Documents**

18 As to Plaintiff's ERISA claim for LTD benefits, at this time, all documents that
19 Prudential has in its possession, custody, or control and that Prudential may use to support its
20 claims or defenses are contained in the administrative record, which Prudential will produce to
21 Plaintiff. Investigation continues. Prudential reserves the right to rely upon any documents
22 identified by the other parties in their disclosures.

23 As to Plaintiff's negligence claim relating to STD benefits, without waiving any
24 objections to the production of the following documents, including objections based on any
25 privilege, Prudential identifies the following categories of documents it may use to support its
26 defenses (other than solely for impeachment).

27 **Documents**

- 28 1. The claim file for Plaintiff's claim for Short-Term Disability Benefits and Long-
29 Term Disability Benefits under Group Contract G-43994-WA;
30 2. Group Contract G-43994-WA and related documents;

3. Plaintiff's medical records, in the possession of his providers or Plaintiff himself;
4. Plaintiff's tax returns and other documents showing his earnings;
5. Any documents in Plaintiff's possession, custody or control showing his activities, including work activities, during the period of alleged disability;
6. Any documents exchanged in discovery; and
7. Any documents identified in Plaintiff's Rule 26(a)(1) initial disclosures.

C. Damages

Prudential is not seeking damages at this time. Prudential reserves the right to seek its costs and/or reasonable attorney's fees consistent with the Federal Rules of Civil Procedure and applicable law in the event it prevails. Investigation continues.

D. Insurance Agreements

Prudential does not maintain an insurance policy that may be used to satisfy part or all of a judgment which may be entered in this action, or to indemnify or reimburse Prudential for payments made to satisfy the judgment.

1 DATED: September 27, 2019

Respectfully submitted,

2 SEYFARTH SHAW LLP

3
4 By: /s/ Shelley R. Hebert

5 Amanda A. Sonneborn (admitted *pro hac*
vice)

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20 1420 Fifth Avenue, Suite 4200

21 P.O. Box 91302

22 Seattle, WA 98111-9402

23 PH: 206-223-7000

24 FAX: 206-203-7107

25 *Attorneys for Defendant*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to RCW 9A.72.085, the undersigned certifies under penalty of perjury under the
3 laws of the state of Washington and the United States, that on the 27th day of September, 2019,
4 she caused a copy of the foregoing RULE 26(a)(1) INITIAL DISCLOSURES to be served upon
5 all counsel of record via U.S Mail, postage pre-paid, and electronic mail:

6 McKean J. Evans
7 Isaac Ruiz
8 Plaintiff Litigation Group, PLLC
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10 Seattle, WA 98104
11 Tel. 206-203-9100
12 Fax 206-785-1702
13 mevans@plaintifflit.com
14 iruiz@plaintifflit.com

15 Rebecca J Francis
16 Davis Wright Tremaine
17 920 Fifth Ave., Suite 3300
18 Seattle, WA 98104-1610
19 Tel. 206-622-3150
20 Fax: 206-757-7700
21 RebeccaFrancis@dwt.com

22 _____
23 /s/ Shelley R. Hebert
24 Shelley R. Hebert
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